IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 245 OF 2004.

1. Fomento Resorts & Hotels Ltd.
   a Public Limited Company, having its
   having its Registered Office
   at Cidade de Goa, through
   its Managing Director,
   Mrs. Anju Timblo.

2. Sociedade de Fomento
   Industrial Pvt.Ltd.,
   a Private Limited Company,
   having its office at
   Villa Flores da Silva,
   Erasmo Carvalho Street,
   Margao, Goa, represented
   by Shri Audhoot Timblo. ... Petitioners.

VERSUS

Panjim Planning & Development
Authority, through its
Member Secretary, having its
Office at Archdiocese Bldg.,
1st Floor, Mala Link Road,
Mala, Panaji, Goa. ... Respondent.

Shri M.S. Usgaoncar, Senior Advocate with Shri Sudesh Usgaoncar, Advocate for the Petitioners.

Shri V.P. Thali, Advocate for the Respondent.

CORAM: S.A. BOBDE &
N.A. BRITTO, JJ.

DATE: 19TH JULY, 2004.

ORAL JUDGMENT: **(PER BOBDE, J.)**

Rule, returnable forthwith. Heard by consent.

2. The petitioners challenge the Order dated 6th November, 2003 refusing N.O.C. to them under Section 49(6) of the Town and Country Planning 1974. The

dispute seems to be as to the ownership of the 'nulla' passing through the property of the petitioner No.2 which is sought to have been transferred to petitioner No.1.

3. Mr. Thali, the learned counsel for the respondent, submits that the petitioners have not demonstrated their ownership of part of the nulla which they have claimed. Therefore, according to the learned counsel, Section 14 of the Land Revenue Code would apply, with the result that part of the nulla would be deemed to be vesting in the State Government and therefore not capable of being transferred by petitioner no.2 to petitioner no.1. Therefore, the N.O.C. has been refused.

4. Mr. Usgaonkar, the learned counsel for the petitioners submitted that sufficient opportunity to demonstrate the ownership of part of the nulla was not given.

5. In the circumstances of the case, we consider it appropriate to set aside the impugned order refusing N.O.C. by permitting the authorities to pass fresh order, after affording an opportunity to the petitioners to submit documents in support of their ownership of the entire land which is transferred under

Sale Deed dated 16th October, 2002 including the portion of nulla.

S.A. BOBDE, J.

N.A. BRITTO, J.

sl.